IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5138 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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AINALHAQ CO. OP. HOUSING SOCIETY

Versus

STATE OF GUJARAT

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Appearance:

MR DP KINARIWALA for Petitioner, Ainalhaq Coop. Housing Society, Juhapura, Ahmedabad.

Ms.Harsha Devani, ASSTT GOVERNMENT PLEADER for Respondents nos.1 and 2.

Respondent no.3 has been served and is represented through Mr.D.N. Patel, who has filed leave note for today.

MR PRASHANT G DESAI for Respondent No.4, Ahmedabad Municipal Corporation.

MR HARESH J TRIVEDI for Respondent No.5, GPCB.

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CORAM : MR.JUSTICE M.R.CALLA
and

MR.JUSTICE R.R.TRIPATHI

Date of decision: 02/08/2000

ORAL JUDGEMENT : (Per M.R. Calla, J.)

This petition was filed by the petitioner Cooperative Housing Society seeking to restrain the respondent authorities, particularly, Ahmedabad Municipal Corporation from establishing any sewerage treatment plant near Gyaspur and Shahwadi villages and populated areas in the vicinity of Shahwadi, Gyaspur, Maktampur, Makarba and Sarkhej. Notice of the petition was issued by the learned Vacation Judge on 25.5.2000 and the same was made returnable on 14.6.2000. It may be mentioned that the order with regard to issuance of the notice has been recorded in the second set and not in the main set.

2. In response to the notice issued by this Court, the respondents have entered appearance and a reply was filed by the Ahmedabad Municipal Corporation and a rejoinder thereto was also filed by the petitioner. A further affidavit dated 2.8.2000 has been filed on behalf of respondent no.4, Ahmedabad Municipal Corporation today.

3. Rule. Learned counsel appearing for the respondents waive service of the rule. In the facts and circumstances of the case, the matter was taken up for final disposal right today. In the further affidavit dated 2.8.2000, which has been filed today, it has been stated on behalf of Ahmedabad Municipal Corporation that renovation of the plant in question is to be made near the site where the existing plant is running and the Municipal Corporation will take necessary permission from the Gujarat Pollution Control Board before the plant is commissioned. It is however, clarified before us in presence of both the sides by Mr.Prashant G. Desai, on behalf of Ahmedabad Municipal Corporation, under instruction from the concerned officer of the Municipal Corporation, who is present in the Court that even for the purpose of site clearance/ NOC, the Ahmedabad Municipal Corporation would move a proper application before the Gujarat Pollution Control Board mentioning therein the particulars of site which is approved under the development plan. It has also been stated in para 12 that at present technology is yet to be finalised by the Govt. of India because it is the Govt. of India's project and even possession of the land is not given by the State Government to the Municipal Corporation. After all these requirements are finalised, proper application

will be made on the basis of technical report relating to the requirements of the land, etc. It has also been stated in para 17 that until the land is available to the Corporation and the technology is decided, the points of discharge cannot be decided and therefore, without finalising the entire scheme with the Govt. of India, proper application cannot be made.

4. It is, therefore, clear that Ahmedabad Municipal Corporation itself is conscious as to what is the correct procedure to be followed and it has also been very candidly given out before this Court that after obtaining necessary permissions from the Gujarat Pollution Control Board including the site selection and NOC only, construction would be commenced by the Municipal Corporation. In this view of the matter no further directions are required to be issued. The Ahmedabad Municipal Corporation will proceed in accordance with the statements made in the further affidavit dated 2.8.2000 as also the oral statements made by the learned counsel for the Ahmedabad Municipal Corporation before this Court as recorded hereinabove. As and when any application is moved by the Ahmedabad Municipal Corporation before the Gujarat Pollution Control Board, the Gujarat Pollution Control Board shall decide the same application in accordance with law.

5. This Special Civil Application is hereby disposed of in the terms as aforesaid and the rule is decided accordingly.

(M.R. Calla, J.)

2nd August 2000 (Ravi R. Tripathi, J.)

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